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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,940	04/06/2007	Rolf Weiler	AP 10800	7081
52203	7590	02/02/2011		
CONTINENTAL TEVES, INC. ONE CONTINENTAL DRIVE AUBURN HILLS, MI 48326-1581			EXAMINER BURCH, MELODY M	
			ART UNIT 3657	PAPER NUMBER
			MAIL DATE 02/02/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/575,940

Applicant(s)

WEILER ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/10 has been entered.

### ***Specification***

2. The amendment filed 12/10/10 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the incorporation by reference statement added in the amendment to the specification filed on 12/10/10. Examiner notes that an incorporation by reference statement cannot be submitted after the filing date of an application.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 7-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4394891 to Oshima.

Re: claims 7, 8, 9, and 12. Oshima shows in figures 1 and 2 a spot type disc brake comprising a brake caliper 7 straddling a brake disc 1; a brake lining 3 displaceably arranged in relation to the brake caliper for tribological interaction with the brake disc when the brake is applied; at least one actuating device arranged in the brake caliper, the actuating device 8 including a piston 13 that exerts an application force on the brake lining 3; and a spring assembly 9 to adjust a clearance between the brake lining and the brake disc after brake application, which is detachably fastened in the spot type disc brake, wherein the brake lining 3 and the actuating device 8 are both located on a same side of the brake disc 1 as shown and wherein the spring assembly includes a spring element 9g, 9h which is at least radially and axially supported on the brake caliper 7 and, in addition, comprises a spring clip 9c, 9d connected to the spring element and being detachably fastened at the brake lining by way of two spring arms 9a, 9b.

Re: claim 10. See elements 3b and 3c in figure 4.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshima in view of US Patent 2711801 to Super et al.

Oshima is silent with regards to the spring clip and the spring element being designed as separate components.

Super et al. teach in col. 1 lines 29-31 the use of spring device used for supporting a brake component either being an integral spring element and clip combination or being formed of separate spring element and clip pieces.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the spring clip and spring element of Oshima to have been made of separate components, in view of the teachings of Super et al., in order to provide a functionally equivalent means of supporting the brake pad/lining depending on assembly and cost requirements.

### ***Response to Arguments***

7. Applicant's arguments filed 12/10/10 have been fully considered but they are not persuasive. Applicant argues that "Oshima does not appear to describe spring arms that urge brake pad 3, 3a against a brake piston." To support his position, Applicant explains that "[t]he force direction of Oshima's spring arms is at right angles compared to the force direction that is required by the Applicant's amended claim 7." Examiner notes that while spring arms 9a, 9b may exert a force in a radial direction, the ends of the spring arms 9a, 9b also exert an axial force equal and opposite to the axial force exerted by the brake pad translating axially due to actuation from the brake piston.

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Examiner maintains that the equal and opposite axial force produced by the ends of spring arms 9a, 9b satisfies the added limitation of the spring arms urging the brake pad 3, 3a against the brake piston. Accordingly, the rejections have been maintained.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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mmb  
January 31, 2011

/Melody M. Burch/  
Primary Examiner, Art Unit 3657